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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,475	01/28/2004	Dean E. Meyer	MDG-006CIP	5070

7590 08/10/2007
Daniel J. Deneufbourg Esq.
37 Tuttle Ave
Clarendon Hills, IL 60514

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/767,475

Applicant(s)

MEYER, DEAN E.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-9,15,17,19,21,23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1,5-9,15,17,19,21,23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 5/8/07 disclaiming the terminal portion of any patent granted on this application that would extend beyond the expiration date of U.S. patent application no. 10/767,482 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

2. Claim 5 is objected to because line 1 should read "wherein the arms are adapted..."

Claims 23, 25, and 27 are objected to because, as currently written, each depends on a cancelled claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Zufich (US 4,099,657 A).

Regarding claims 1, and 6, Zufich discloses a clip (17) comprising an elongate U-shaped continuous strip of material which has been bent and shaped to define a generally arcuate central body (50) and a pair of rigid spaced-apart arms (51a,51b) extending outwardly from opposed ends of the central body. The initial statement of

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intended use and all other functional implications have been considered but are not deemed to patentably distinguish over Zufich, which is capable of being used in the intended manner, i.e. being used in connection with a pack intended to store and carry articles and adapted to be carried by a user in an over-the-back relationship, where the clip rests or engages against the waist and/or hips of the user, the pack defining a shell, a generally vertical front panel and a generally horizontal closed bottom panel, and an interior, the clip being located within the interior of the pack in a relationship along the bottom panel of the pack such that the arms protrude through opening defined in the front panel of the pack in a direction generally normal to the generally vertical front panel, the pack further defining a pair of sleeves extending outwardly from said opening defined in the shell and the arms of the clip extending through the sleeves respectively.

Regarding claims 5, 6, and 8, the arms of Zufich are adapted to be flexed laterally away from each and to spring back towards each other to exert a compressive force against the waist and/or hips of a user. For example, looking at Figure 1 of Zufich, if a user's waist and/or hips were wide enough, the arms of the clip (17) could be flexed out and released, at which point they would spring back towards each other and exert a compressive force upon the user's waist and/or hips.

Regarding claim 7, Zufich discloses a backpack adapted to be carried by a user in an over-the-back relationship and comprising a support member (17) associated therewith and defining a pair of spaced-apart arms (51a, 51b) adapted to rest against the waist and/or hips of the user, the backpack further comprising an interior, a generally vertical front panel, and a generally horizontal closed bottom panel, said pair of spaced-

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apart arms being made of a rigid and flexible material and extending outwardly from opposed ends of a lower portion of said front panel in a generally horizontal relationship and a direction normal to the front panel (see Figure 1), the arms being adapted to be flexed laterally away from each other for adjusting the width of said support member, said arms being further adapted to spring back towards each other and into engagement with the waist and/or hips of the user.

Regarding claim 9, the clip of Zufich includes a generally arcuate central body (50) extending in a generally horizontal relationship along the bottom panel of the bag and interconnecting said pair of arms at opposed ends of said central body.

5. Claims 7, 8, and 15, are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (US 5,890,640 A).

Regarding claim 7, Thompson discloses a backpack adapted to be carried by a user in an over-the-back relationship and comprising a support member (26/28) associated therewith and defining a pair of spaced-apart arms (26,28) adapted to rest against the waist and/or hips of the user (see Figure 1), the backpack further comprising an interior, a generally vertical front panel (62), and a generally horizontal closed bottom panel, said pair of spaced-apart arms being made of a rigid and flexible material and extending outwardly from opposed ends of a lower portion of said front panel in a generally horizontal relationship and a direction normal to the front panel (see Figure 1), the arms being adapted to be flexed laterally away from each other for adjusting the width of said support member, said arms being further adapted to spring back towards each other and into engagement with the waist and/or hips of the user.

Regarding claim 8, the arms of Thompson are adapted to exert a compressive force against the waist and/or hips of a user. For example, looking at Figure 1 of Thompson, if a user's waist and/or hips were wide enough, the arms (26,28) of the clip could be flexed out and released, at which point they would spring back towards each other and exert a compressive force upon the user's waist and/or hips.

Regarding claim 15, Thompson discloses a pack adapted to be carried by a user and comprising a shell defining a front panel including an outer surface (62), a hollow interior, a bottom panel, and a longitudinal axis extending through the shell and the bottom panel in a direction and orientation normal to the bottom panel, a support member (26/28) located and extending within the interior of the pack in a generally horizontal relationship (near lower ends of support member) and direction generally normal to the direction of the longitudinal axis (again, near lower ends of the support member) of the shell and defining a pair of spaced-apart arms (26,28) extending from within the interior of the pack through apertures (circumference of material between sheet 62 and panels 44 and 46) defined in the front panel of said pack in a generally horizontal relationship and in a direction generally normal to the longitudinal axis of said shell, said arms being adapted to abut the waist and/or hips of the user, and a pair of sleeves (44,46) in communication with said apertures defined in the outer surface of said pack and extending outwardly from said outer surface of said front panel of said pack in a direction and relationship generally normal to the longitudinal axis of said shell (see Figures 1 and 2), said arms of said support member extending through said sleeves.

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6. Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Drager (US 1,448,918 A).

Regarding claim 15, Drager discloses a pack adapted to be carried by a user and comprising a shell defining a front panel including an outer surface (s), a hollow interior, a bottom panel, and a longitudinal axis extending through the shell and the bottom panel in a direction and orientation normal to the bottom panel, a support member (a/b) located and extending within the interior of the pack in a generally horizontal relationship (see portions b) and direction generally normal to the direction of the longitudinal axis (again, portion b) of the shell and defining a pair of spaced-apart arms (b) extending from within the interior of the pack through apertures (circumference of material between portion of covering that houses 'a' and portion that houses 'b') defined in the front panel of said pack in a generally horizontal relationship and in a direction generally normal to the longitudinal axis of said shell, said arms being adapted to abut the waist and/or hips of the user, and a pair of sleeves (portion of covering 's' that houses 'b') in communication with said apertures defined in the outer surface of said pack and extending outwardly from said outer surface of said front panel of said pack in a direction and relationship generally normal to the longitudinal axis of said shell (see Figures 1 and 2), said arms of said support member extending through said sleeves.

Regarding claim 17, the support member (a/b) defines a clip including a base (a) located within the interior of the pack and extending in a generally horizontal relationship along the bottom panel of the pack, said arms extending unitarily outwardly

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from opposed ends of said base and being adapted to flex towards and away from each other (via hinge b1).

7. Claims 21, 23, 25, and 27 are rejected under 35 U.S.C 102(b) as being anticipated by Lamar (US 5,419,473 A).

Regarding claim 21, Lamar discloses a golf bag adapted to be carried by an individual in a generally over-the-back relationship, the golf bag including a front panel defining an outer surface and adapted to rest against the back of the individual carrying the golf bag, a pair of shoulder straps (42) secured to the outer surface of the front panel, an open top end, a closed bottom end, and a longitudinal axis extending through the open top end and closed bottom end of the golf bag, the golf bag further comprising a support member (60) defined by a continuous, generally U-shaped strip of material which has been bent and shaped to define an arcuate central body (68) and a pair of spaced-apart, generally parallel arms (70, made of flexible material that can be manipulated to be parallel) extending outwardly from respective opposed ends of said central body, said central body of said support member being secured to the front panel of the golf bag at a point along the longitudinal axis of the golf bag (see Figure 1) whereby, with the golf bag being carried by its shoulder straps in said over-the-back relationship, the body of said support member rests against the small of the back of the individual carrying the golf bag and the arms are adapted to rest against the waist and/or hips of the individual, the arms being adapted to be flexed laterally away from each other for adjusting the width of said support member, said arms being further adapted to spring back towards each other and into contact with the waist and/or hips of

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the user (flexible material of 60 allows for such flexing and springing by user manipulation).

Regarding claim 23, assuming dependency from claim 21, the support member (60) defines a clip which is pivotable (portions 70 are pivotable) about the front panel of the golf bag between a first engaged position adjacent the outer surface of the golf bag and a second position in engagement with the waist and/or hips of the individual carrying the golf bag.

Regarding claim 25, assuming dependency from claim 21, the arms (70) are adapted to exert a compressive force (via user manipulation) against the waist and/or hips of the individual carrying the golf bag.

Regarding claim 27, assuming dependency from claim 21, a strap (72) extends between and interconnects the arms, the arms being pivotable towards each other in response to lateral movement of said strap.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being obvious over Lamar in view of Yewer, Jr. et al. (US 4,782,535 A):

Lamar discloses the claimed invention except for the arms of the support member being made of shape memory material. Yewer, Jr. et al., however, teach that a

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waist belt may includes a layer of shape memory material (col. 3 lines 30-33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement a layer of shape memory material in the waist belt (60) of Lamar, as taught by Yewer, Jr. et al., so that the waist belt would at least partially retain a user-specific shape for ease of attachment and for improved comfort.

Allowable Subject Matter

10. Claim 19 is allowed.

Response to Arguments

11. Applicant arguments filed 5/8/07 with respect to Pinczykowski, Buck, Jr., and Chen have been fully considered but are moot in view of the new grounds of rejections.

12. Applicant has asserted that the support member of Thompson consists of two rods that extend in a direction and relationship parallel to the longitudinal axis of the pack which extends through the bottom panel of the pack. As set forth above, Examiner is of the position that the lower portions of the rods of Thompson can be considered to extend "in a generally horizontal relationship and direction generally normal to the direction of the longitudinal axis of the shell" as set forth in claim 15. This can be clearly seen in Figure 2 of Thompson.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
8/6/07


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SUPERVISORY PATENT EXAMINER